

House
REPUBLICAN
Conference

FloorPrep

Legislative Digest

Thursday, April 23, 1998

John Boehner
Chairman
8th District, Ohio

House Meets at 10:00 a.m. for Legislative Business

Anticipated Floor Action:
H.R. 1252—Judicial Reform Act



H.R. 1252—Judicial Reform Act

Floor Situation: The House will consider H.R. 1252 as its first order of business today. Yesterday, the Rules Committee granted an open rule which provides one hour of general debate, equally divided between the chairman and ranking member of the Judiciary Committee. The rule waives points of order against consideration of the bill for violating the Budget Act. The rule makes in order a committee amendment in the nature of a substitute as base text, which strikes Section 9 and renumbers the remaining provisions accordingly. Additionally, the rule accords priority in recognition to members whose amendments are pre-printed in the *Congressional Record*. The chairman of the Committee of the Whole may postpone amendment votes and reduce the voting time on a postponed vote to five minutes, so long as it follows a regular 15-minute vote. Finally, the rule provides one motion to recommit, with or without instructions.

Summary: H.R. 1252 reforms certain aspects of the judicial system. Among its major provisions, the bill designates a three-judge panel to analyze U.S. district court decisions which may be perceived as unconstitutional. Currently, a single judge reviews such cases. The bill also permits interlocutory (temporary) appeals of court orders relating to class-action suits. Additionally, H.R. 1252 makes changes to the current method of filing complaints against the conduct of a federal judge by those involved in court cases. The bill prohibits federal district courts from requiring any state or local government to raise taxes on its residents in order to enforce a federal or state law. The bill also includes numerous smaller provisions to (1) reassign civil cases to other federal courts in an attempt to reduce caseload backups; (2) establish new rules involving *habeas corpus* cases; (3) allow limited television coverage of U.S. district court proceedings, and (4) reduce litigation costs in minor cases. CBO estimates that enactment will result in additional discretionary outlays of \$7 million in FY 1999 and a total of approximately \$121 million over the FY 1999-2003 period, assuming appropriation of estimated amounts. H.R. 1252 was introduced by Mr. Hyde and was reported by the Judiciary Committee reported the bill by voice vote on April 1, 1998.

Views: The Republican Leadership supports passage of the bill. The Clinton Administration strongly opposes its passage.

Amendments: At press time, the *Legislative Digest* was aware of the following amendments to H.R. 1252:

Mr. Aderholt may offer a technical amendment (#1) to extend the bill's existing provisions regarding federal courts' authority over new state and local taxes to existing state and local revenues. **Staff Contact:** *Terri Hasdorff, x5-4876*

Messrs. Boehlert and Delahunt may offer an amendment (#3) regarding the ability of federal courts to force state and local governments to raise taxes in order to comply with a federal law. Currently, the bill prohibits federal courts from directly forcing municipalities to raise taxes, or forcing compliance with a federal law which *may* force them to raise taxes, while following a federal law. Authors of the amendment claim that such latitude by federal courts contains the effect of nullifying all current laws which municipalities must follow because of the remote possibility that taxes might be raised to cover the costs of compliance. The amendment narrows the scope of the bill and limits courts' enforcement authority by prohibiting them from specifically calling for increased local taxes in order to follow federal law. **Staff Contacts:** *David Goldston or John Mimikakis (Boehlert), x5-3665; Mark Agrast (Delahunt), x5-3111*

Mr. Campbell may offer an amendment (#2) to strike language related to the authority of federal courts to order municipal governments to raise taxes in order to comply with federal law unless the proposed tax would result in property value depreciation or loss to taxpayers affected by the federal court's order. **Staff Contact:** *Suhail Kahn, x5-2631*

Mr. Coble may offer a technical amendment to make several technical corrections to the bill, including extending the judicial technology fund and requiring special certification of court magistrates and clerks. **Staff Contact:** *Mitch Glazier (Judiciary Courts and Intellectual Property Subcommittee), x5-5741*

Mr. Conyers may offer an amendment to allow U.S. courts to maintain legal jurisdiction in lawsuits against foreign-controlled and foreign-owned companies whose products are imported into the U.S., regardless of the company's intention for the product to be imported. **Contact:** *x5-5126*

Mr. Delahunt may offer an amendment to require the General Accounting Office to conduct a study into the number of existing vacancies in federal judgeships. **Contact:** *x5-3111*

Mr. DeLay may offer an amendment (#4) to prohibit federal judges from ordering the release of persons convicted of violent or drug-related crimes because of prison conditions. Additionally, the amendment reverses certain "consent decrees" issued which grant authority over management of state and local prisons to federal judges and other third parties. The sponsor cites existing federal law which bars federal courts from intervening in the management of state and local prisons unless the court issues an order specifically directing the prison to correct a condition which violates a prisoner's federal rights. Nevertheless, federal judges have issued numerous orders to release prisoners because of their complaints over certain conditions they found unfavorable, such as complaints over food temperatures or access to certain amenities. However, the sponsor cites rising concerns over crimes committed by dangerous criminals once they are released as justification for

the need to severely restrict the ability of federal judges to release violent criminals from prison.
Staff Contacts: *Tony Rudy or Tim Berry, x5-0197*

Ms. Jackson-Lee may offer an amendment to allow a federal court to restrict information obtained during the “discovery” process of a federal trial, or access to court records from a federal civil case, as long as such a restriction does not also limit access to information which may be relevant to public health and safety. The sponsor asserts that consumers should know when products and services may be defective or hazardous, and that if such information is contained in court documents it should be made available to the public without compromising other nondisclosure requirements of a trial.
Staff Contact: *Leon Buck, x5-3816*

Ms. Lofgren may offer an amendment to amend Rule 501 of the Federal Rules of Evidence to extend the right to immunity from being compelled to testify in a federal trial to parents and their children. The amendment creates an immunity privilege similar to that between doctors and patients or lawyers and their clients. **Contact:** *x5-3072*

Messrs. Nadler and Chabot may offer an amendment to require federal district judges to (1) order the face and voice of the witness to a trial proceeding—at the request of the witness—to be disguised in such a way as to render them unrecognizable if the trial proceedings are open to print or electronic media broadcast; and (2) inform trial witnesses of their right to request such protection while they testify. The intent of the amendment is to encourage witness testimony that may be central to a trial by providing a measure of protection to witnesses who are reluctant to testify due to personal safety concerns they may have in choosing to testify. **Staff Contact:** *John Doty (Nadler), x5-5635; Joe Rubin (Chabot), x5-2216*

Messrs. Rogan, Frank, Graham, and Watt (NC) may offer an amendment (#5) to strike language which allows parties to a federal lawsuit to petition for their case to be reassigned to another judge before the suit goes to trial. **Staff Contacts:** *Myron Jacobsen (Rogan), x5-4176; Robert Raben (Frank), x5-6906; Stephanie Macalka (Graham), x5-3101; and Ted Kalo (Watt), x5-1510*

Additional Information: See *Legislative Digest*, Vol. XXVII, #9, April 17, 1998.



PLEASE NOTE: UNDER AN OPEN RULE, MEMBERS MAY OFFER NEW AMENDMENTS TO A BILL AT ANY TIME, REGARDLESS OF WHETHER THEY HAVE BEEN PRE-PRINTED IN THE *CONGRESSIONAL RECORD*.

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House REPUBLICAN Conference Amendment Alert!

Please attach the text of the amendment (if available) and fax to the *Legislative Digest* at x5-7298

John Boehner
Chairman
8th District, Ohio

Member Sponsoring Amendment: _____ Bill #: _____

Additional Co-sponsors (if any): _____

Staff Contact: _____ Phone #: _____ Evening Phone #: _____

Description of the amendment: _____

(Please include any additional or contextual information)

Reason for offering amendment (e.g., How will this change the bill or current law? Why should members support this change?): _____

Legislative Digest reserves the right to edit descriptions for style, readability, and provisional accuracy.

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